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 Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE  
 Application Number (Optional)

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# **TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION OVER A PRIOR PATENT**

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In re Application of: **David Gines**  
 Application No.: **09/209,323**  
 Filed: **December 11, 1998**  
 For: **ELECTROSURGICAL GENERATOR WITH ADAPTIVE POWER CONTROL**

The owner, Sherwood Services, AF 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,033,399. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer. In the event that it later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☒ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☐ The undersigned is an attorney or record.

Void date: 08/25/2000 CCHAU1  
 08/25/2000 CCHAU1 00000053 09315698  
 02 FC:148 -110.00 OP

08/29/2000 CCHAU1 00000096 09209323

01 FC:148 110.00 OP  
 02 FC:948 20.00 OP

F. Brad Salcedo 8/26/00  
 Signature Date

**F. Brad Salcedo**  
 Chief Executive Officer  
 Typed or printed name

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included.

\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
 Form PTO/SB/96 may be used for making this statement. See MPEP § 324.

BURDEN HOUR STATEMENT: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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**STATEMENT UNDER 37 CFR 3.73(b)**Applicant/Patent Owner: Sherwood Services AGApplication No./Patent No.: 09/209,323 Filed/Issue Date: December 11, 1998Entitled: ELECTROSURGICAL GENERATOR WITH ADAPTIVE POWER CONTROLSherwood Services AG, a corporation

(Name of Assignee)

(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of an undivided part interest

in the patent application/patent identified above by virtue of either:

- A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

OR

- B. ☒ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: David Gines To: Valleylab Inc.  
The document was recorded in the Patent and Trademark Office at  
Reel 8505, Frame 0830, or for which a copy thereof is attached. (parent case)

2. From: Valleylab Inc. To: Sherwood Services AG  
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3. From: \_\_\_\_\_ To: \_\_\_\_\_  
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☐ Additional documents in the chain of title are listed on a supplemental sheet.

- ☐ Copies of assignments or other documents in the chain of title are attached.  
**NOTE:** A separate copy (i.e., the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the PTO. See MPEP 302-302.8)

The undersigned (whose title is supplied below) is empowered to sign this statement on behalf of the assignee.

8/22/00  
Date

F. Brad Salcedo  
Signature

F. BRAD SALCEDO  
Typed or printed name

Chief Executive Officer  
Title